

No. 5143

IN THE

United States Circuit Court of Appeals

For the Ninth Circuit

MOULTON MINING COMPANY (a corporation),
CLARK-MONTANA REALTY COMPANY (a corporation),
ELM ORLU MINING COMPANY (a corporation), and J. ROSS CLARK,

Appellants,

vs.

ANACONDA COPPER MINING COMPANY (a corporation),

Appellee.

APPENDIX TO APPELLANTS' BRIEF,
CONTAINING DIAGRAMS.

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FILED

OCT 13 1927

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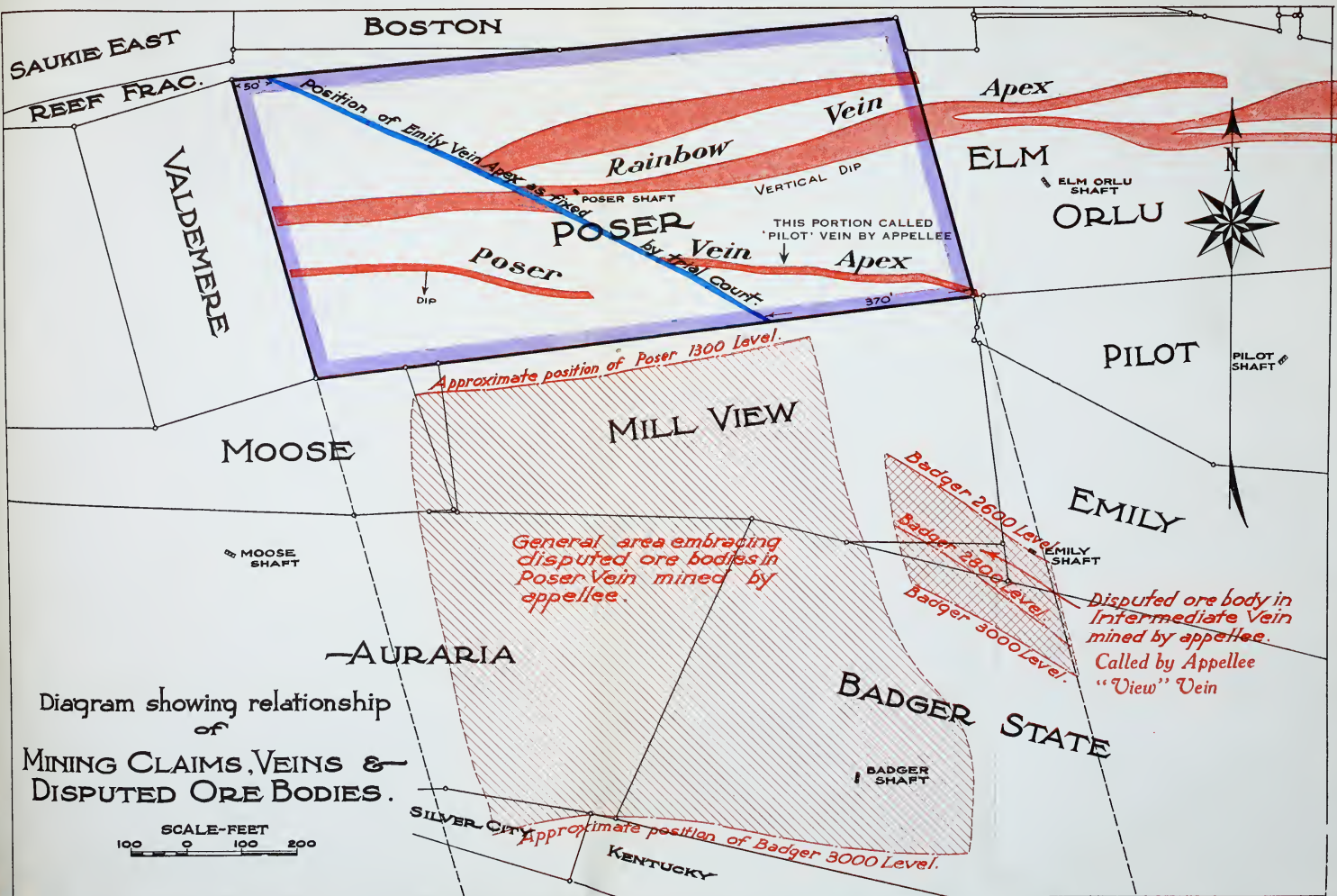
APPENDIX TO APPELLANTS' BRIEF,
CONTAINING DIAGRAMS.



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5.	Surface map showing relative position of above cross-sections.
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22.	Composite map illustrating crossing of Intermediate-"View" Vein by Emily.



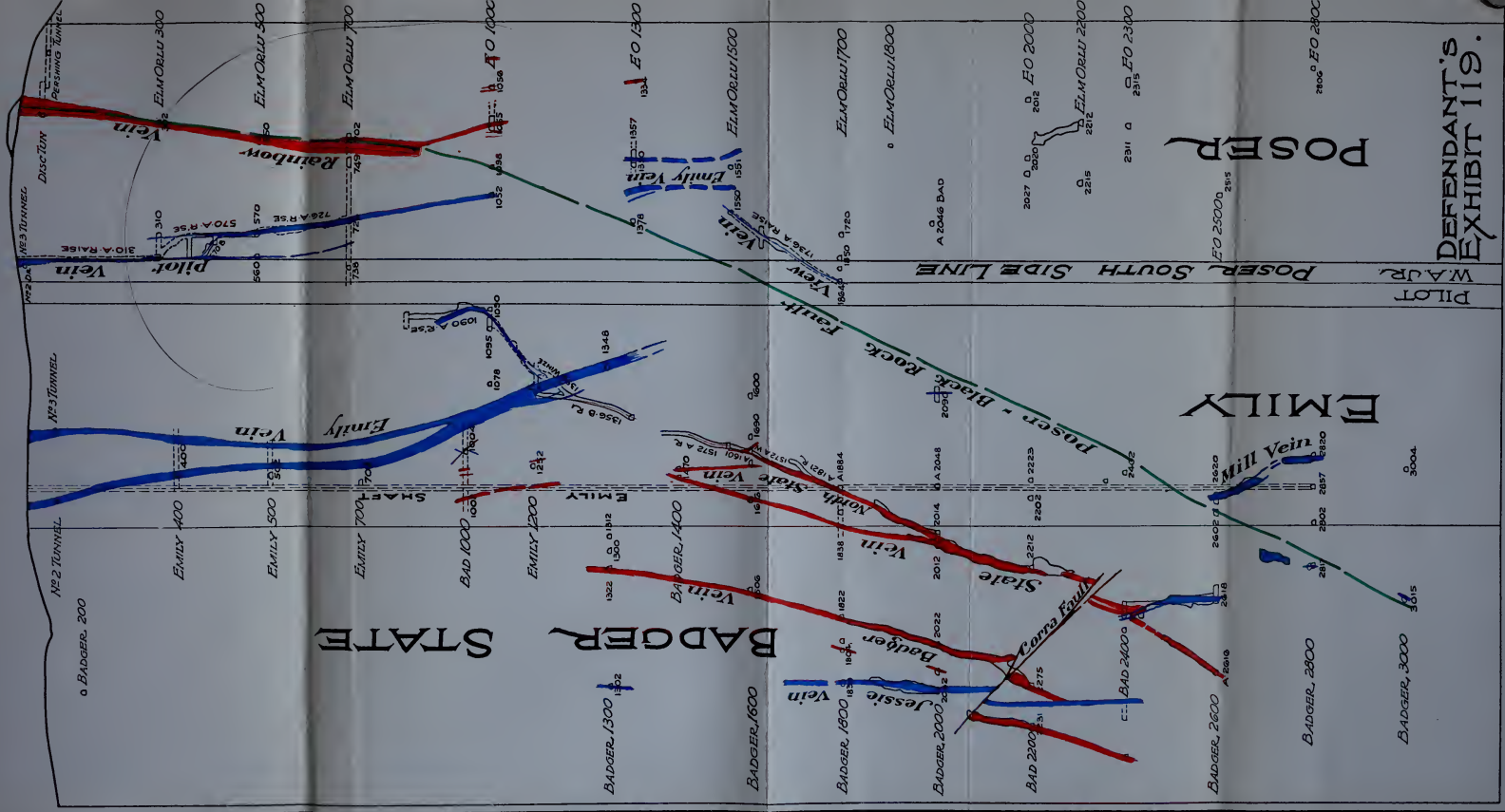


Poser claim owned by appellants is admitted to be prior to appellee's claims to south. Rainbow vein is admitted to be discovery vein of Poser claim and it is also admitted that its apex crosses both end lines. Poser vein apex at surface is shown as claimed by appellants. Emily vein apex is shown as fixed by trial court. Intermediate vein, a branch of the Rainbow vein, has Rainbow vein apex. Court found that right hand ore body was in "View" vein, a branch of the Emily, and that apex of latter was also apex of "View" vein. Automatically this would entitle appellants to "View"-Intermediate vein extralaterally west of the point where the Emily vein apex crosses the south side line of the Poser claim. The trial court failed to award even this conceded vein segment to appellants.



SECTION THROUGH POSER EAST END LINE PLANE LOOKING WEST.

Scale in Feet
100 0 100 200 300 400



Appellee contended throughout that the "Pilot" vein was a branch of the Emily and the trial court in effect so found because it refused to find that it was the Poser vein as contended by appellants. It also found the "View" vein to be a branch of the Emily. The Poser claim is senior and hence the "Pilot" branch of the Emily, according to appellee's own theory, should control the ore bodies in dispute because the "Pilot" apex is in Poser ground.

DEFENDANT'S
EXHIBIT 119.





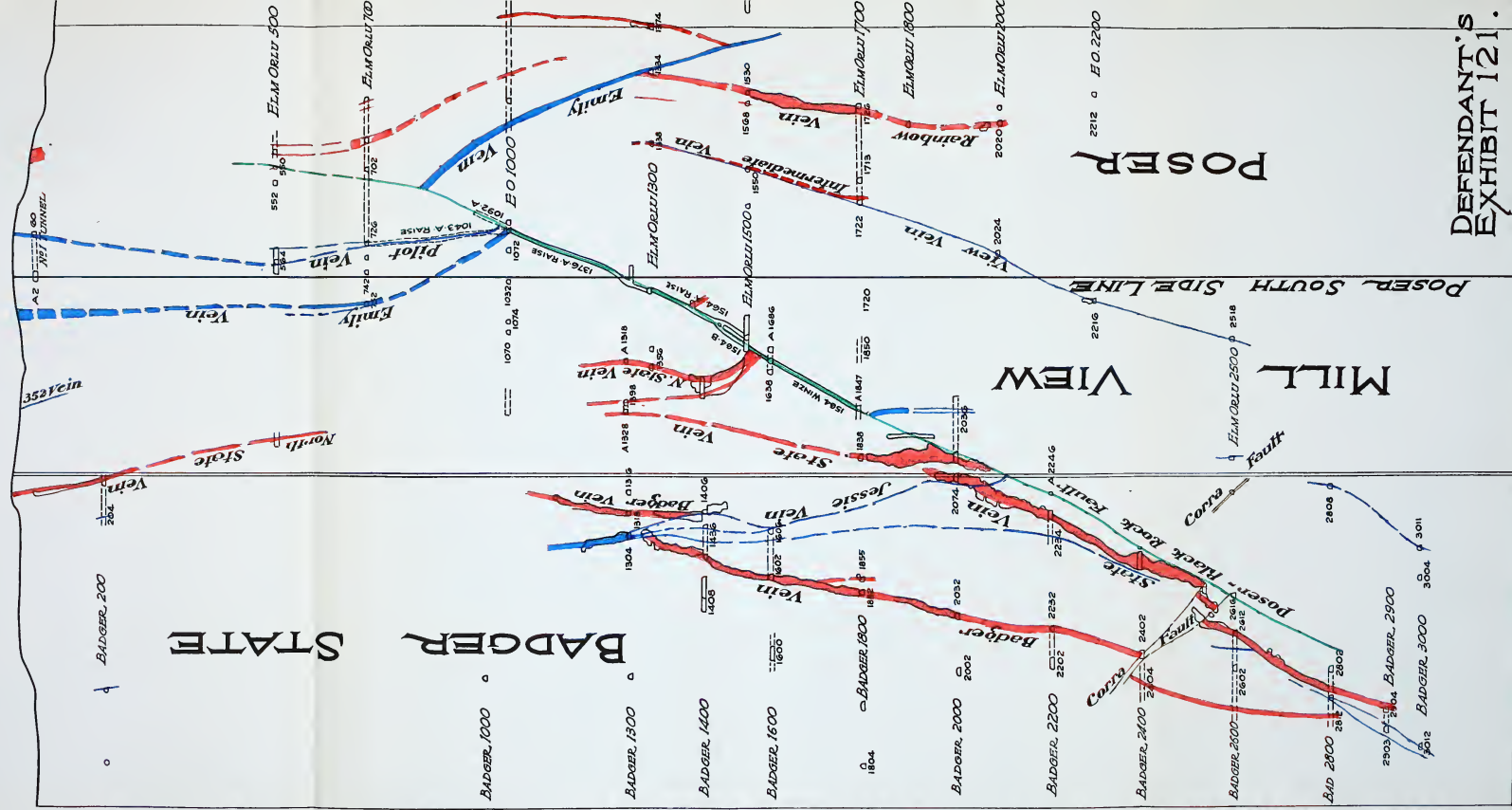
SECTION

B-B

N 11° 00' W

LOOKING WEST

Scale in Feet
0 100 200 300 400

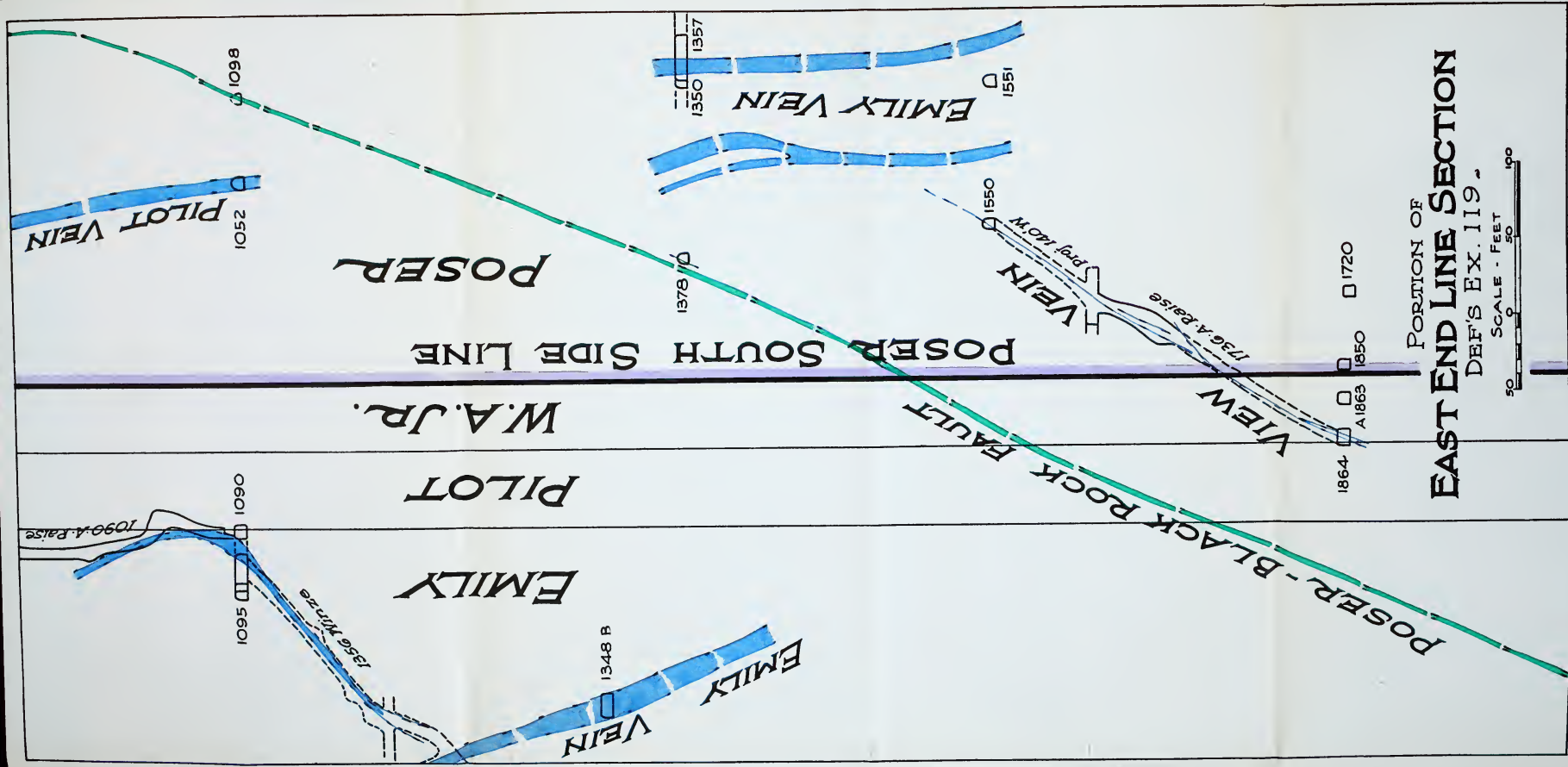


DEFENDANT'S
EXHIBIT 121.

Here also, appellee's "Pilot" branch of the Emily is the first vein encountered across the fault from the Emily abutment on the small side of the fault. The "Pilot" apexes in the Poser claim. Note that appellee's own showing indicates a 200 foot displacement by the Black Rock fault.



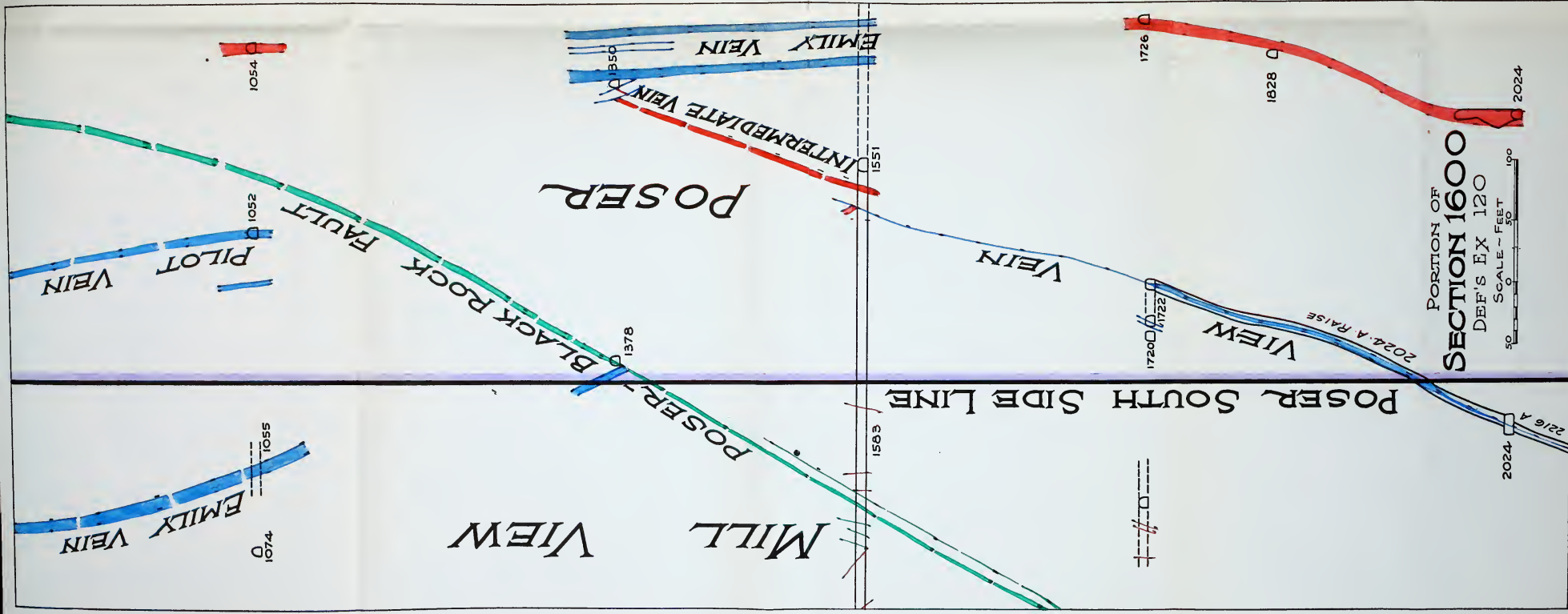




PORTION OF
EAST END LINE SECTION
 DEF'S EX. 119.

This diagram is a copy of a portion of appellee's cross-section through the Poser east end line. It shows the "View" vein crossing the Poser south side line plane and entering the Poser claim and approaching the Emily of which it was found to be a branch. The Black Rock fault intervenes between the Poser and Emily veins, making a sub-fault apex for the footwall branch. The ends of the Emily segments above shown are 300 feet apart.



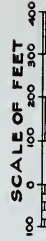


This cross-section crosses the south side line of the Poser claim about 150 feet from the S. E. corner. It shows the "View" vein crossing the Poser south side line plane and penetrating up into Poser subsurface. The faulted Emily are several hundred feet apart, after making any reasonable projection of the Emily vein segments to the fault. A sub-fault apex for the "View" vein here clearly exists.



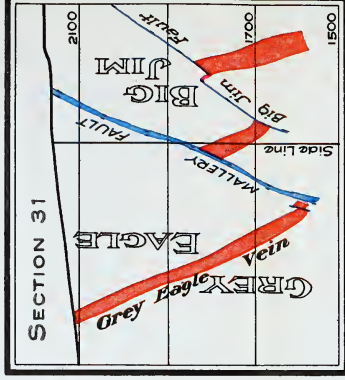
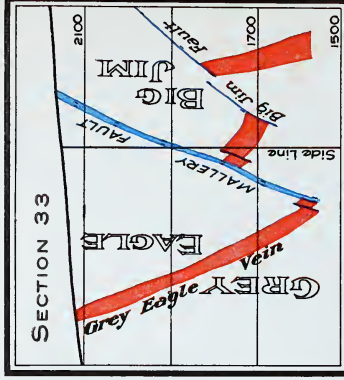
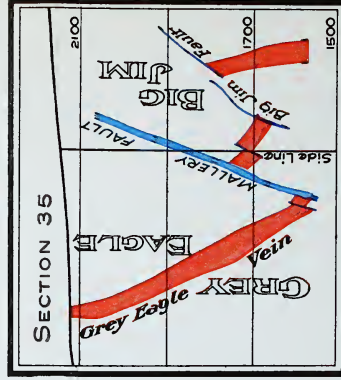
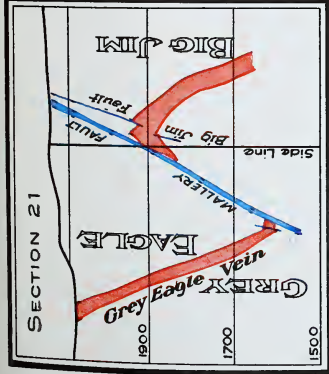
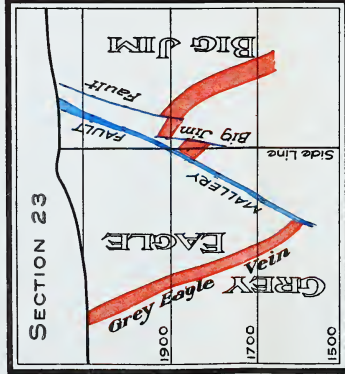
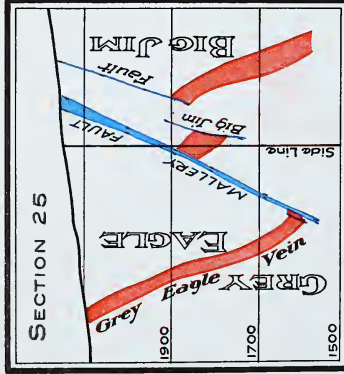


TOM REED GOLD MINES CO. V.
UNITED EASTERN MINING CO. (ARIZ.)
209 PAC. 283



These cross-sections through the vein segments there involved indicate a dislocation of only between 100 and 200 feet measured along the fault between the faulted ends of the middle segment of the vein. Although the courts awarded the Tom Reed Co. an extralateral right on a portion of the middle segment appearing in Tom Reed ground, it would not allow it to cross this 150 foot fault gap. Certiorari was denied by the U. S. Supreme Court.

S.M.R.





MILL VIEW

POSER SOUTH SIDE LINE

POSER



PORTION OF
SECTION 309

LOOKING WEST.
(Defendant's EX. 122)

Scale - Feet
100 0 100 200



2031

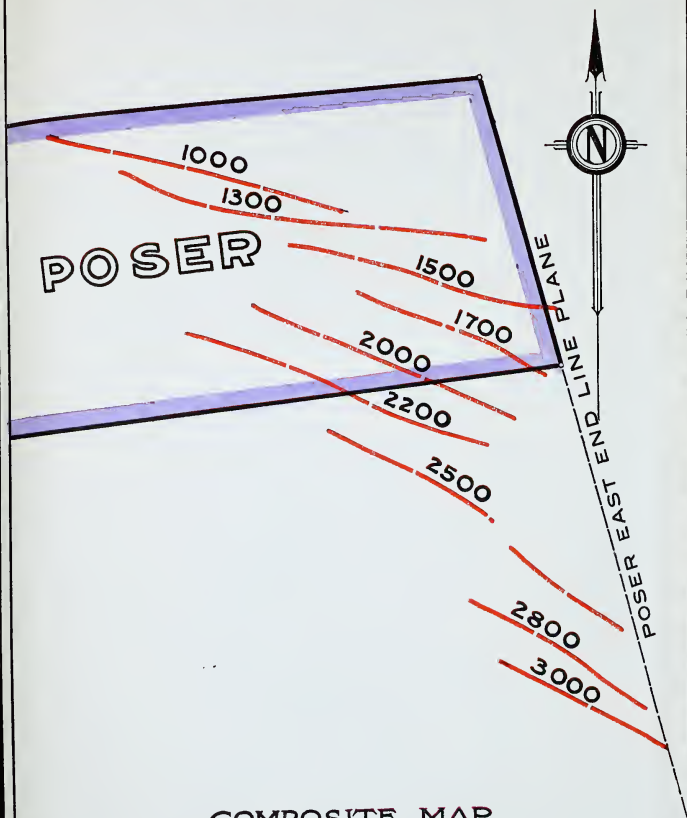
2216

This is a portion of appellee's cross-section passed through the middle of the Poser claim. Its exact position is shown on Diagram No. 5. The "View" vein is found well within Poser subsurface and maintaining its uniform southerly dip. It is shown coincident and coextensive with the Intermediate vein above between the 1300 and 1000 levels. Not one of appellee's witnesses could distinguish the mineralization of one vein from the other throughout the great area of hundreds of feet of absolute contact. This is appellee's own picture of the situation.

Diagram No.

10



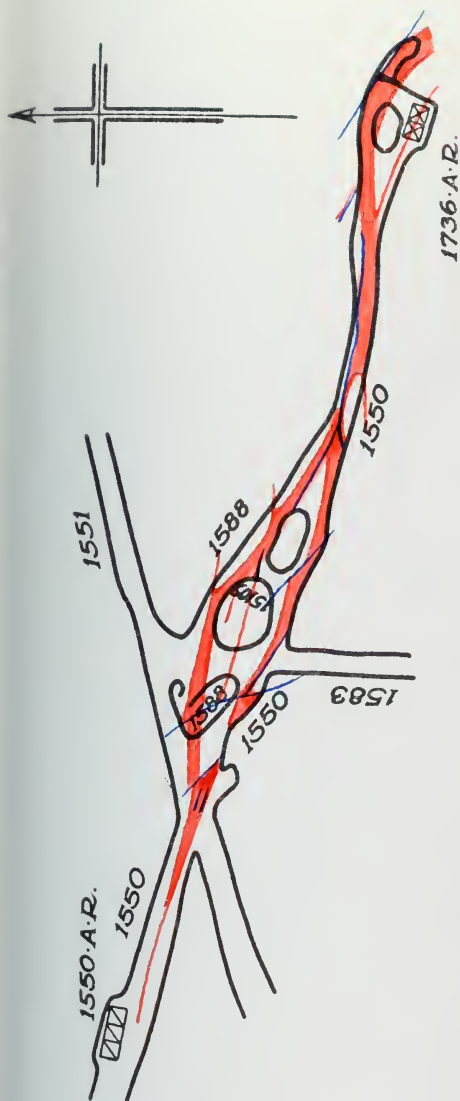


COMPOSITE MAP
showing exposures
OF
INTERMEDIATE-"VIEW" VEIN
In different levels
PROJECTED TO ONE PLANE.

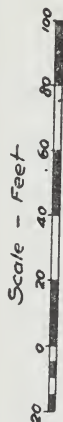
SCALE- FEET
100 0 100 200 300

This diagram shows the trace of the Intermediate-"View" vein on the different levels where it has been exposed, and illustrates the substantial similarity of strike throughout. The Intermediate-"View" vein on the 1000 level and the alleged "View" vein on the 2200 level are practically parallel in strike.





Composite Portion of Exhibits 147, 152, 167 Simkins', Mead's and Roddewig's Notes on Easterly End of 1550 Drift



This illustrates the portion of the 1500 level workings where appellee contends the Intermediate vein separates from the "View" vein. During the trial appellants ran the 1588 drift because appellee was contending that all of the Intermediate vein passed out northerly beyond 1588 crosscut. This 1588 drift was then run and followed around all the way southeasterly on what Mr. Wiley for appellee admits to be one strand of the Intermediate vein which he also admitted joined the "View" vein encountered where the 1588 drift rejoins the 1550 drift.



PORTION
DEFENDANT'S
SECTION B-B

EXHIBIT 121
(Reduced)

Scale - Feet
0 20 40 60 80



Diagram No.

13

This diagram illustrates appellee's conception of the co-existent, coincident Intermediate and "View" veins from the 1700 level to the 1300 and, as its other exhibits show, up to the 1000 foot level. Throughout this 700 foot dip distance and the several hundred feet of contact on strike in the various levels above, not one of appellee's witnesses can point to any mineralization whatsoever in the combined structure and identify it as belonging to the one or the other of the two alleged structures. Is there any other possible conclusion than that for legal purposes they have become a single merged vein.





WEST END RAISES.

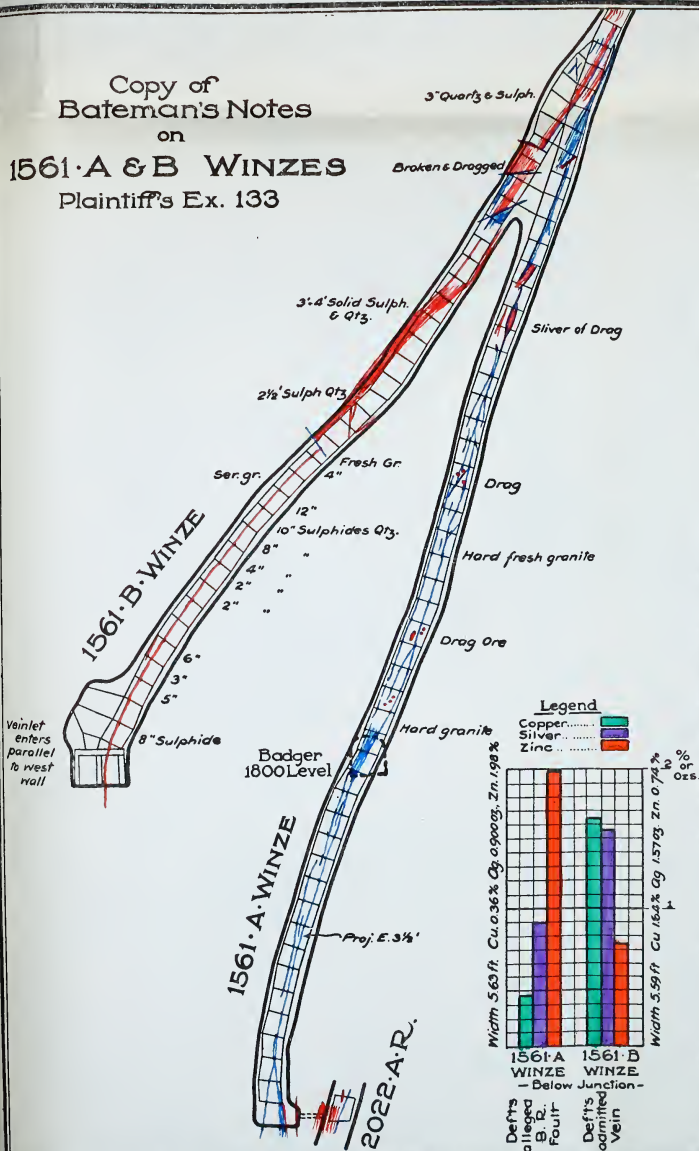
EAST END RAISES.



The two sets of raises are duplicated to present the geology of each side. The east end raises follow an admitted vein down to the 1000 level and yet the mineralization of the east end raises is much less than the mineralization of what appellants claim is the Poser vein and appellee contends is Black Rock fault in the west end raises. This is shown on a series of colored graphs placed opposite each set of raises so that they may be compared at a glance. The lower right hand graphs compare averages of assay returns throughout this same distance and indicates that the total mineralization of the Poser vein in the west end raises is twice that of the admitted vein in the east end raises.

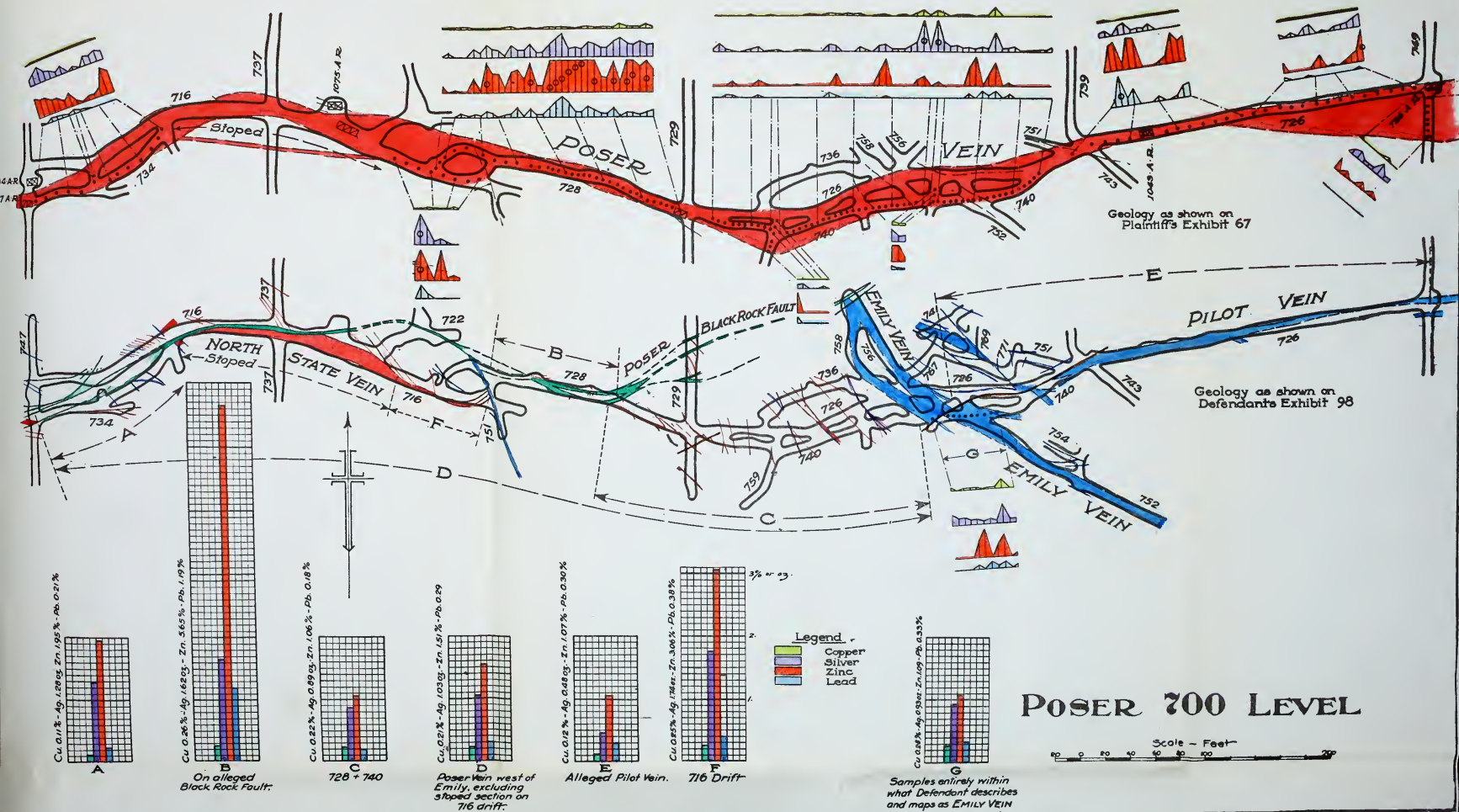


Copy of
Bateman's Notes
on
1561-A & B WINZES
Plaintiff's Ex. 133



Note that though Black Rock fault is indicated as being disclosed in 1561-A winze with only a few specks of mineralization showing in red, yet there is more than twice the amount of zinc and nearly as great a total of mineralization as is found in 1561-B winze run on an admitted vein.





The level is duplicated to depict each side's geology. Note that the Poser vein west of the Emily is more highly mineralized than the admitted vein east of the Emily. The average assay of the various segments are shown in colored proportion by the lower graphs. Note the intense mineralization of "B" claimed by appellee to be a segment of Black Rock fault.

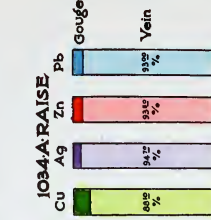


ASSAY GRAPHS SHOWING
OF
CONTRASTING PERCENTAGES OF ASSAY VALUES
POSER VEIN AND BLACK ROCK GOUGE
IN WEST END RAISES

POSER SOUTH SIDE LINE

1034-A-RAISE

	Cu (lbs)	Ag (ozs)	Zn (lbs)	Pb (lbs)
Vein	989	2112	57639	15704
Gouge	133	116	4010	1156
Total	1122	2228	61649	16860
% of Vein	881	947	938	95
% of Gouge	118	53	912	65
Total width of Vein Cuts 1223 Feet				
Total width of Gouge Cuts 141 Feet				
% of Vein to Gouge	90± %			



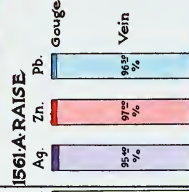
1346-A-RAISE

	Cu (lbs)	Ag (ozs)	Zn (lbs)	Pb (lbs)
Vein	752	404	28813	21250
Gouge	48	6	1508	462
Total	800	410	29921	21712
% of Vein	94	983	948	912
% of Gouge	9	1	51	21
Total width of Vein Cuts 1413 Feet				
Total width of Gouge Cuts 463 Feet				
% of Vein to Gouge	83± %			



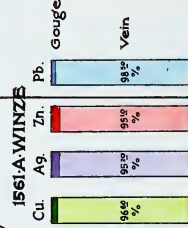
1561-A-RAISE

	Cu (lbs)	Ag (ozs)	Zn (lbs)	Pb (lbs)
Vein	25351	2914	69120	6092
Gouge	847	142	2102	222
Total	26198	3055	71222	6314
% of Vein	96	96	97	96
% of Gouge	3	4	3	4
Total width of Vein Cuts 1301 Feet				
Total width of Gouge Cuts 212 Feet				
% of Vein to Gouge	92± %			



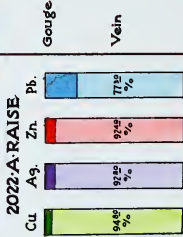
1561-A-WINZE

	Cu (lbs)	Ag (ozs)	Zn (lbs)	Pb (lbs)
Vein	9319	2226	57197	3575
Gouge	325	112	2945	55
Total	9644	2338	60142	3630
% of Vein	96	95	95	98
% of Gouge	3	5	5	2
Total width of Vein Cuts 2112 Feet				
Total width of Gouge Cuts 312 Feet				
% of Vein to Gouge	92± %			



2022-A-RAISE

	Cu (lbs)	Ag (ozs)	Zn (lbs)	Pb (lbs)
Vein	12705	1415	37754	2665
Gouge	696	110	3076	782
Total	13401	1525	40830	3447
% of Vein	94	92	92	78
% of Gouge	5	8	8	22
Total width of Vein Cuts 1423 Feet				
Total width of Gouge Cuts 111 Feet				
% of Vein to Gouge	92± %			

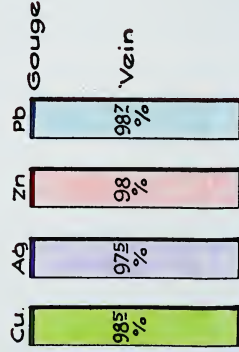
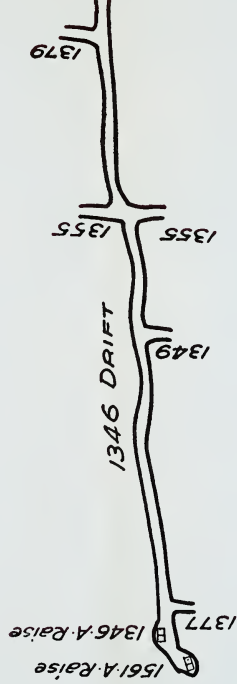




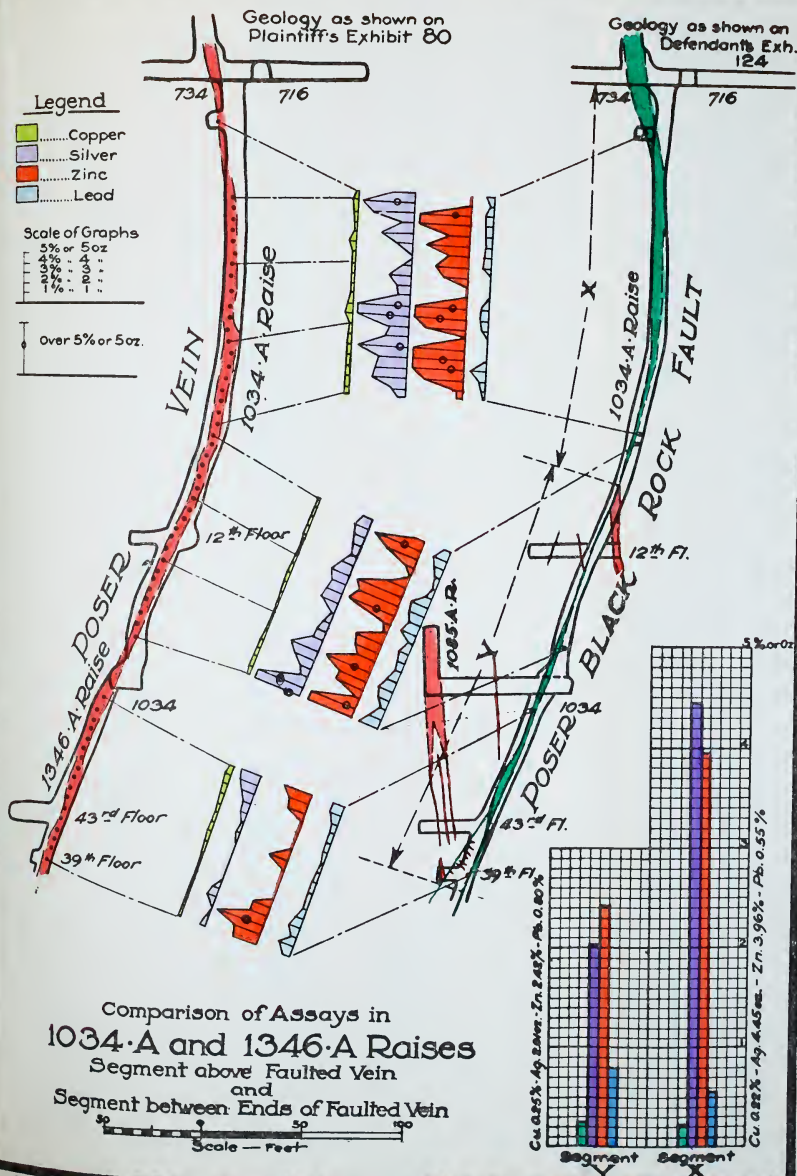
ASSAY GRAPHS SHOWING
CONTRASTING PERCENTAGES OF ASSAY VALUES
OF
POSER VEIN AND BLACK ROCK GOUGE
IN POSER 1346 DRIFT

	Cu(lbs)	Ag(ozs)	Zn(lbs)	Pb(lbs)
Vein	6936	1097	69284	19336
Gouge	104	28	1423	250
Total	7040	1126	70707	19586
% Vein	98.5	97.5	98	98.7
% Gouge	1.5	2.5	2	1.3

Total length of sample cuts on Vein 290.5 feet
 " " " " Gouge 47.8 feet
 " " % of Vein over Gouge 85.7 %.



POSER 1346
Plaintiff's Ex. 154



Section Y, between two faulted vein segments where, according to appellee's contention, drag should account for mineral values appearing in the Poser vein, is much less mineralized than Section X where there are no faulted vein segments.

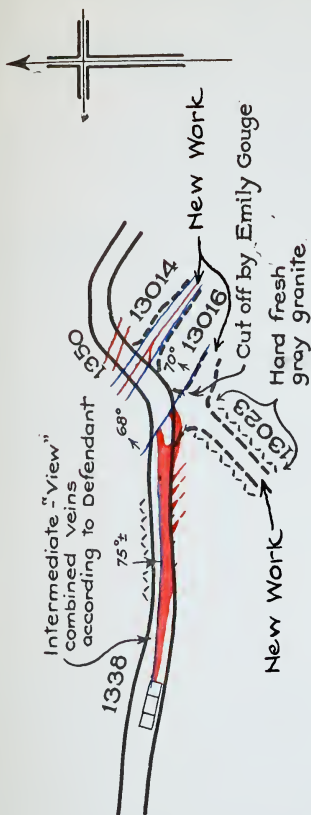
Diagram No.

Stress acting in an Easterly direction

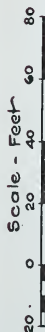
Stress acting in a Westerly direction

Plaintiff's
Exhibit 44

Copy of Dr. Mead's illustration showing shattering effect of stresses as determined by years of experimental work and practical observation, which explains the condition of the Poser vein just west of the Emily vein on the 700, 1000, and 1300 Poser levels where it exists as a mineralized zone or network of fissures.



COMPOSITE OF PORTIONS OF EXHIBITS 16 AND 150



In the early stages of the trial appellee contended that the "View" vein turned out of 1338 drift to the south before the blue Emily gouge was encountered which cut off the main intermediate vein structure. Appellants then ran the 13023 and 1306 workings which conclusively demonstrated that no such turning out or departure occurred, but that ALL vein structure was cut off, crossed, and intersected by the Emily structure and that no possible union of the Emily and "View" veins could take place.